

MOSER LAW FIRM, PC



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February 23, 2024

VIA ECF

Hon. Steven I. Locke, USMJ
United States District Court, Eastern District of New York
100 Federal Plaza
Central Islip, NY 11717

Re: *Siancas v Rallye Motors, LLC, et al*, Case No. 14-cv-06151(JS)(SIL)

Dear Judge Locke:

I represent the Plaintiff(s) in the above referenced matter. Please accept this letter motion to withdraw from representing the Plaintiff Orlin Maldonado, and granting him 30 days to either appear pro-se or to retain substitute counsel. Due to this application we also request an extension of the time to file the *Cheeks* motion until such time as the claims of Orlin Maldonado are resolved.

Local rule 1.4 provides as follows:

An attorney who has appeared as attorney of record for a party may be relieved or displaced only by order of the Court and may not withdraw from a case without leave of the Court granted by order. Such an order may be granted only upon a showing by affidavit or otherwise of satisfactory reasons for withdrawal or displacement and the posture of the case, including its position, if any, on the calendar, and whether or not the attorney is asserting a retaining or charging lien.

The decision to grant or deny a motion to withdraw is within the district court's discretion. The Court should consider the reasons for withdrawal and the impact of the withdrawal on the timing of the proceeding. *Karimian v. Time Equities, Inc.*, 2011 U.S. Dist. LEXIS 51916, 2011 WL 1900092, at *2 (S.D.N.Y. May 11, 2011) (citing S. & E.D.N.Y.R. 1.4).

A failure by a party to communicate with counsel constitutes good reason to withdraw. *Bueno v. Allcity Med.*, No. 22-CV-2216 (PAE) (KHP), 2023 U.S. Dist. LEXIS 101889, at *6 (S.D.N.Y. June 8, 2023); *Farmer v. Hyde Your Eyes Optical, Inc.*, 60 F. Supp. 3d 441, 445 (S.D.N.Y. 2014)(a client's lack of communication with counsel is a satisfactory reason for withdrawal).

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Plaintiff's counsel has attempted to contact the Plaintiff Orlin Maldonado. More specifically,

- On May 31st, 2023, we called the telephone number on file to find that it had been disconnected.
- On May 31, 2023, we sent a letter to the address on file for Orlin Maldonado. Nor response was received.
- On October 25, 2023, we used our online investigative search tools to locate eight potential individuals matching the name Orlin Maldonado and matching and mailed letters to all 8 addresses.
- Following the mailing of the letter we received telephone calls from three individuals named "Orlin Maldonado". Two of these individuals plainly indicated that they were not the Plaintiff. The third was originally believed to be the Plaintiff, but that individual also later admitted that he had never worked for the Defendants.
- According to information received from other Plaintiffs, Orlin Maldonado has returned to Honduras and his whereabouts are unknown.

As of the date hereof, we have not been able to communicate with Orlin Maldonado. Therefore, we respectfully request leave to withdraw. We are not exercising a charging lien, and the procedural posture of this case is such that granting of the motion to be relieved will not result in inordinate delays.

Counsel for the Rallye Defendants has indicated that he does not oppose my withdrawal from this action, provided that there can be no settlement of any part of this action without either Mr. Maldonado's participation in the settlement or the dismissal with prejudice of his claims herein.

We ask that Mr. Maldonado be given 30 days to appear pro-se or by counsel.

Respectfully Submitted,

Steven J. Moser

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CC: All counsel of record via ECF